

**COMPLAINT INVESTIGATION
CLARK COUNTY SCHOOL DISTRICT
(#CL021309)**

INTRODUCTION

On 02/13/09, the Nevada Superintendent of Public Instruction received a complaint dated 02/10/09 from a parent alleging violations in the special education program of a student with disabilities attending Clark County School District (CCSD). An investigation team was appointed to examine the allegations, as clarified by the parent in an interview with the investigation team, that: 1) the 9/29/08 Multidisciplinary Evaluation Team Report (MDT Report) completed by the intern psychologist and signed off by the school psychologist had many errors, and its validity was questionable; 2) CCSD did not follow recommendations made by the school psychologist at the 9/29/08 individualized educational program (IEP) meeting; 3) CCSD provided a transition plan that was incomplete, inaccurate and inappropriate; 4) the school attempted to manipulate the student into signing documents that the student did not understand when the student reached the age of 18; 5) CCSD did not provide supports for the student's disability, such as color overlays, books on tape and appropriate educational instruction as required by the 4/25/08 and the 9/29/08 IEPs; 6) CCSD failed to provide the parent with information on the process of remaining involved once the student reached the age of 18 and 7) an email request on 1/9/09 by the parent and a verbal request by the student to hold an IEP meeting were not honored and the requests by both the parent and student to return the student to his home school were not addressed.

Concurrently with filing the complaint, the parent also filed a request for a due process hearing dated 2/10/09 on behalf of the student. The request for a due process hearing included identical allegations to that of the state complaint. Federal regulations at 34 CFR §300.152(c)(i) state "If a written complaint is received that is also the subject of a due process hearing under §300.507 or §300.530 through 300.532, or contains multiple issues of which one or more are part of that hearing, the State must set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing." Therefore, the complaint investigation was set aside pending the resolution of the due process hearing. An order for withdrawal of the due process complaint was issued on 7/13/09. The parent's request for a complaint investigation on the concomitant issues was not withdrawn and the sixty-day timeline for resolving the complaint commenced on 7/13/09.

Under the provisions of 34 CFR §300.152(b) which permits the extension of the 60 day timeline for the completion of a complaint investigation report due to exceptional circumstances, the Nevada Department of Education (NDE) extended the timeline for the completion of the complaint investigation due to the unavailability during the summer months of the CCSD personnel who could access necessary documents and with whom interviews were needed. The parent and the district were notified of this extension in letters dated 8/15/09.

COMPLAINT ISSUES

The allegations articulated in the complaint, and further clarified by an interview with the parent and a review of the documents, raised the following issues under the jurisdiction of the NDE for the time period of 2/10/08 through 2/10/09:

- Issue 1: Whether CCSD complied with state requirements to ensure that the assessments used in the reevaluation were used for the purposes for which they were valid and reliable, specifically the assessments conducted by the intern.
- Issue 2: Whether CCSD complied with state requirements to consider the results of the most recent evaluation when developing the student's 9/29/08 IEP, specifically the recommendations of the school psychologist.

- Issue 3: Whether CCSD complied with state requirements to provide measurable postsecondary goals based upon age-appropriate transition assessments and transition services in the student's IEP.
- Issue 4: Whether CCSD complied with federal and state requirements to obtain informed consent from the student once he reached the age of 18.
- Issue 5: Whether CCSD complied with state requirements to provide modifications and accommodations, specifically: 1) the ability to go to the special education teacher or learning lab for help; 2) teacher prepared notes/power points and color overlays and 3) books on tape.
- Issue 6: Whether CCSD complied with state requirements to notify the parents that a transfer of rights had occurred when the student reached the age of 18.
- Issue 7: Whether CCSD complied with state requirements to convene an IEP meeting in response to parent and student requests in January 2009 to discuss aspects of the student's transition services and educational program as well as requests to change the location of the student's placement.

PERSONS INTERVIEWED

The investigation team interviewed the following persons:

- Parent
- Student
- Principal
- Special education facilitator
- Special education teacher
- School psychologist (psychologist)
- Intern psychologist (intern)
- Region transition specialist (transition specialist)
- Director of psychological services
- Compliance monitor

DOCUMENTS REVIEWED

The documents reviewed by the investigation team included the following:

- 4/25/08 IEP
- 9/29/08 IEP
- Teachers' email responses regarding accommodations dated 4/2/09—4/13/09
- Email correspondence between parent and district dated 4/23/08—2/10/09
- Special education facilitator's sign out sheet for classroom materials 5/7/08—2/10/09
- Special education teacher's status report for student dated 9/18/08—9/24/08
- Special education teacher's conference notes 8/28/08—1/29/09
- District status record (status record) dated 10/23/06-2/10/09
- CCSD 2007/2008 and 2008/2009 school calendars
- Student progress reports for 11/14/07, 4/16/08 and 1/23/09
- Student report card for 1st semester of 2008/2009 school year
- Student attendance records for spring of 2007/2008 school year and for 2008/2009 school year
- Prior written notices dated 4/16/08, 4/21/08, 9/19/08 and 9/25/08
- MDT Report dated 9/29/08
- Request to Withdraw Form completed by parent and student dated 2/5/09
- Test Manual pages regarding administration and validity and reliability of the Peabody Individual Achievement Test-Revised (PIAT-R)

- Test Manual pages regarding administration and validity and reliability of the Wechsler Individual Achievement Test-Second Edition (WIAT-II)
- Test Manual pages regarding administration and validity and reliability of the Kaufman Assessment Battery for Children, Second Edition L (KABC-II)
- Test Manual pages regarding administration and validity and reliability of the Test of Visual-Perceptual Skills (non-motor) Upper Level-Revised (TVPS-3)
- 9/12/08 purchase order for color overlays
- Parent's 9/5/09 list of issues with the MDT REPORT
- Intern's graduate school transcript

The investigation team also reviewed the following authorities:

- Nevada Administrative Code (NAC), Chapter 388
- Individuals with Disabilities Education Act (IDEA) Regulations, 34 CFR Part 300

FINDINGS OF FACT

This investigation involved a high school student who was eligible for special education services as a student with specific learning disabilities. The student attended a non-zoned school (assigned school) in CCSD during the 2007/2008 and 2008/2009 school years. A review of documents, as well as interviews with the parent, student, principal, special education facilitator, special education teacher, psychologist, intern, transition specialist, director of psychological services and compliance monitor revealed the following facts.

The 2007/2008 school year ended on 6/4/08 with a 4/25/08 IEP in effect. The parent signed her agreement with the 4/25/08 IEP. The 2008/2009 school year began on 8/25/08. There was one IEP meeting (9/29/08 IEP) in the 2008/2009 school year up to the date of the complaint.

The student reached the age of 18 prior to the 9/29/08 IEP. There was no assertion that the student had been adjudged incompetent or that a guardian had been appointed. Subsequent to the filing of the complaint, the student was absent from the assigned school continuously beginning on 2/17/09 until officially withdrawing from school on 3/27/09.

Reevaluation and MDT REPORT

The parent gave consent on 4/24/08 for a reevaluation that was to be completed at the beginning of the 2008/2009 school year. The student was to be tested because of academic, visual and cognitive concerns. The reevaluation assessments took place between 4/25/08 and 9/19/08 and the MDT Report was completed and dated 9/29/08.

The psychologist reported that the reevaluation was the most recent evaluation of the student when the 9/29/08 IEP meeting was held. Procedures that were components of the reevaluation included an interview with the parent, a review and update of the student's medical history, a review of prior assessments, an interview and an observation of the student, a synopsis of teacher progress reports, instructional recommendations and four standardized tests: the PIAT-R, the KABC-II, the WIAT-II and the TVPS-3. The manuals for each of the standardized tests provided information about the requirements for administration, and information about reliability and validity as discussed below.

1. The PIAT-R manual stated that it is a standardized test used to measure academic performance and achievement and summarized its reliability and validity. The manual required that it be administered by teachers, psychologists, learning specialists, and others in related professions.
2. The KABC-II manual stated that it is a standardized test used to measure the cognitive and processing abilities of students and summarized its reliability and validity. The manual stated that administration of the KABC-II required the expertise gained through graduate level training in psychology and individual cognitive assessment.

3. The WIAT-II manual stated that it is a standardized test used to assess learning processes in academic settings and summarized its reliability and validity. The WIAT-II manual stated that administration should be conducted by professionals who have training in the use of individually administered assessment instruments.
4. The TVPS-3 manual stated that it is a standardized test used to assess visual perception and summarized its reliability and did not list any criteria for qualifications for the administration of the test.

The psychologist reported that the intern administered the PIAT-R, the WIAT-II, the KABC-II and the TVPS-3. The psychologist reported that the intern had a foreign accent. The psychologist and the intern reported that the psychologist came in the testing room to supervise the testing. They reported that she asked the student if he was having any difficulties understanding the intern and the student reported that there were no problems understanding him. The intern was a teacher in the district who was enrolled in a graduate program to obtain his degree as a school psychologist. The director of psychological services reported that the intern completed all the course work in assessment and evaluation required for a school psychologist prior to serving as an intern with the district. The intern's graduate school transcript showed that he had graduate level training in psychology and had successfully completed courses in the area of academic and cognitive assessment in accordance in the requirements prescribed by the test publishers.

The parent stated there were errors in the MDT Report. She reported that the student was unable to understand the intern clearly enough to respond correctly to all the answers because of the intern's accent. In response to a request by the investigation team, the parent submitted in writing the errors she felt were in the MDT Report which caused it to lack validity. The following concerns were raised: 1) disagreements with statements made by the teachers with respect to the student's self advocacy; 2) criticisms she had of the student's special education program; 3) a statement that testing results did not match recommendations; 4) a statement that the psychologist could have obtained information from a previous school district; 5) a statement that a particular medication was not identified as a daily medication and 6) a statement that the MDT Report incorrectly indicated that the parent was present at the 9/29/08 meeting when the MDT Report was discussed.

The parent reported to the investigation team that while she had the concerns about the MDR Report and she had disagreements with some of the conclusions as discussed above, she did agree with the instructional recommendations of the psychologist in the MDT Report and was willing to accept it and then see what happened.

Recommendations of the School Psychologist

The special education facilitator, the special education teacher and the psychologist reported that the psychologist presented, reviewed and discussed the entire MDT, including her recommendations, with the 9/29/08 IEP committee members at the beginning of the IEP meeting. The IEP committee members reported that this was standard operating procedure for the psychologist. The instructional suggestions of the school psychologist were addressed and included in the Present Levels of Academic Achievement and Functional Performance (PLOPs) section of the 9/29/08 IEP, but were not included as accommodations in the 9/29/08 IEP.

Measurable Postsecondary Goals and Transition Services

The 9/29/08 IEP included the required transition components for a student aged 16 and above. The IEP stated that the student's vision for the future was "I'm joining the air force after (graduating from high) school. I'm going to be an aircraft technician". The IEP included postsecondary goals for training/education, for employment and for independent living. The specific goals stated only "military", "competitive" and to "be self-reliant" respectively.

The "Statement of Transition Services" consisted of five sections. The Instruction Section stated "[Student] will complete required coursework at satisfactory level or above to obtain a high school diploma. [Student] should initiate a meeting with counselor to affirm vocational interests and graduation plan". The Related Services section stated "None". The Community Experience section stated "[Student] will continue...volunteer work with Team Vegas helping with remote control cars/planes". The Employment section stated "[Student] should investigate taking the ASVAB exam, and meet with an armed forces recruiter to determine eligibility and requirements for admission". The Living Skills section stated "None".

The PLOPs section of the IEP did not include any data from age-appropriate transition assessments, nor did any additional documentation exist to demonstrate that such assessments had been conducted.

The transition specialist reported that the transition plan did not have: 1) measureable postsecondary goals; 2) any transition services that would specifically be provided to the student by the district and 3) there were no age-appropriate transition assessments reported in the student's PLOP's or in any other part of the student's IEPs.

Accommodations and Modifications

The 4/25/08 IEP and the 9/29/09 IEPs (IEPs) included the following accommodations and modifications in all classes which the parent reported were not provided to the student: "1) Access to special education teacher or utilize the learning lab resource center as needed throughout the day; and 2) Copy of class notes/power points/color overlays upon student's request or needed". The status record indicated that copies of the student's accommodations listed in the 4/25/08 IEP were given to each of the teachers on 4/25/08 and on 8/25/08. The status record indicated that copies of the accommodations listed in the 9/29/08 IEP were given to each of the teachers on 9/30/08.

In an 11/7/08 email to all of the student's general education teachers, the parent wrote "...please know that I have never said nor indicated that the teachers were not following the IEP or making accommodations as requested".

The student's general education teachers, in April 2009 emails to the compliance monitor, gave information about the accommodations provided to the student as described below.

Access to special education teacher or learning lab

The parent stated that the student did not get any help when he went to the special education teacher or to the learning lab resource center. The special education teacher's conference notes, signed by the student, show that on 8/28/08 she advised him to come to the Learning Lab for assistance with assignments. In a report to the compliance monitor, the special education facilitator reported that the student utilized the learning lab four times. The student reported that no one prevented him from going to the learning lab or to the special education teacher for assistance and that he generally went to the learning lab to take exams.

Copies of class notes, power points and color overlays

The parent reported that the student did not receive any class notes or power point presentations when requested. The geometry teacher reported that on one occasion the student asked for a copy of notes; she told the student to stop by after class to get the notes and the student never came by. The English teacher reported that she provided notes when they were requested by the student. The student reported that there was no problem obtaining class notes and power points from the teachers.

The special education facilitator maintained a classroom materials sign out sheet. The sign out sheet stated that the student borrowed a color overlay on 4/29/08. In a 5/13/08 email to the special education facilitator, the parent referenced the color overlay that the student had in his possession.

The parent and student reported that he carried a color overlay in the backpack but did not want to take it out and use it because it would get scratched and that the teachers did not make color overlays available to the him when the he requested one.

An order for twenty color overlays was placed by the special education facilitator on 9/12/08. The status record indicated that on 9/18/08 the special education teacher gave each teacher a folder with a color overlay. The district calendar showed that there were 18 school days from 8/25/08 through 9/18/08. A 9/18/08 email from the special education teacher to the student's teachers stated that the student could use the overlay in the class and that it should be collected at the end of class. The email further told the teachers to direct the student to the special education facilitator if the one the student carried got lost. The status record indicated that on 9/19/08 the special education teacher told the student about the overlays in each class and gave the student one to keep.

The health education teacher reported that she had a color overlay for the student. The geometry teacher and the English teacher reported that the color overlay was available if the student requested it and that the student never requested it.

The student reported that only the health education teacher made a color overlay available in class and that the English and geometry teacher told him that they did not have one when he requested one. The student also reported that on one occasion he was directed to the special education facilitator for a new overlay and she failed to provide one. The student stated that this situation continued until he stopped attending the assigned school in February.

Books on Tape

The parent and the student also reported that the district failed to provide him with books on tape. There was no requirement in the IEPs for the student to receive books on tape.

Signature on IEP

The parent was unable to attend the 9/29/08 IEP meeting. The meeting was held without her, although the student and the grandmother were present. The special education teacher reported that she asked the student to sign the IEP once and the student reported that the parent had to read it first. The status record shows that on 9/29/08 "Grandmother and student agreed with all components of the IEP, but would not sign the placement page without the mother reviewing the documents first". The student reported that district staff repeatedly asked him to sign the IEP even though he told them that his mother had to review it first. The student did not sign the 9/29/08 IEP.

Transfer of Rights

The parent reported that she was never notified that the transfer of parent rights had taken place once the student turned 18. She stated that she had wanted the notice so that she could know what she had a legal right to do in order to continue to be involved in the student's education. The compliance monitor reported that the district did not send a notice to the parent telling her that the transfer of parent rights had taken place once the student turned 18.

The compliance monitor reported that the district used NDE model IEP forms for all students when developing IEPs. She stated that the district routinely relied on the NDE model IEP forms to meet the obligation to notify parents of the transfer of a student's rights once a student had turned 18. The student's 4/25/08 and 9/29/08 IEPs had a checkmark next to the statement that "The student has been informed of his/her rights under IDEA and advised of the transfer of these rights at age 18".

Request for IEP meeting in January

On 1/9/09 the parent sent an email to the special education teacher asking for an IEP meeting because she wanted an "appropriate" transitional plan for the student as well as a "functional/realistic plan for the student's senior year". The parent reported to the investigation team that the student had verbally

requested in January that an IEP meeting be scheduled and that the district refused to respond to both her 1/9/09 written request and to the student's verbal requests for the meeting.

The special education teacher's conference notes state that on 1/8/09 in a conversation with the student about the student's struggles with geometry **she** suggested that they convene an IEP meeting and the student stated "that would be fine, but [I] don't want to have a meeting until the new semester". The conference notes also stated "[Student] would let me know when he was ready and available to have a meeting". A 1/28/09 conference note stated "[Student] was not interested in an IEP revision at this point". The conference notes were not signed by the student. The parent, in a 10/21/08 email, had asked that the special education teacher not ask the student to sign anything.

Request for Change of Location from Assigned School to Home School

During the same period the district was ascertaining whether the student wanted to have an IEP meeting, the parent sent an email on 1/21/09 stating that she was interested in the process of having the student transfer from the assigned school to his home school before the end of the 2008/2009 school year and requested a withdrawal form. In a 1/21/09 email response to the parent's request, the school counselor informed the parent that the student needed to go to the registrar's office to obtain a 'Request for Withdrawal', complete it and return it to the registrar.

In a 2/2/09 response to the parent, the principal stated that the form would be faxed that morning and once the paperwork was received, it would be forwarded to the home school. There were eight school days between 1/21/09 and 2/2/09. The completed paperwork, signed by the student and the parent, was returned to the school on 2/5/09, which was a Thursday. On 2/9/09, a Monday, the principal forwarded the request to the principal of the home school. There was one school day between 2/5/09 and 2/9/09.

The special education teacher reported that she had not received a verbal request or written request from the student requesting a move back to the home school prior to the school's receipt of the completed paperwork requesting the change nor had she received a request from the student for an IEP meeting to discuss a move from the assigned school to the home school (see "Request for IEP meeting in January" above).

CONCLUSIONS OF LAW AND REASONS

Issue 1: Whether CCSD complied with state requirements to ensure that the assessments used in the reevaluation were used for the purposes for which they were valid and reliable, specifically the assessments conducted by the intern.

This complaint concerned an allegation that the assessments conducted by the intern psychologist and signed off by the school psychologist had many errors and that the validity was questionable.

State regulations at NAC §388.340(4)(a)(3) state "The public agency shall ensure that (a) Assessments and other evaluation materials used to assess a pupil pursuant to this section are: (3) Used for purposes for which the assessments or measures are valid and reliable; ...".

In this case a reevaluation was conducted to address academic, visual and cognitive concerns and an MDT Report summarized the results of the reevaluation.

As part of the reevaluation, four standardized tests were administered to the student by the intern and interpreted by the psychologist. The tests measured academic, visual and cognitive areas. The standardized tests were the only tests administered by the intern. The intern met the standards required for administering the tests. The tests were reliable and valid for the purposes for which they were used.

In submitting a list of concerns about the MDT Report to the investigation team, the parent did not present any claim or documentation that any of the assessments used in the reevaluation were not used for the purposes for which they were valid and reliable, including the standardized tests administered by the intern. The district was obligated to ensure that the assessments administered to the student were used for the purposes for which they were valid and reliable and did so.

Therefore, the investigation team concluded that CCSD complied with state requirements to ensure that the assessments used in the reevaluation were used for the purposes for which they were valid and reliable, specifically the assessments conducted by the intern.

Issue 2: Whether CCSD complied with state requirements to consider the results of the most recent evaluations of the student when developing the student's 9/29/08 IEP, specifically the recommendations of the school psychologist.

This complaint concerned an allegation that CCSD did not follow recommendations made by the school psychologist at the 9/29/08 IEP meeting.

State regulations at NAC §388.284(2)(a) state that "When developing a pupil's individualized educational program, the committee shall: (a) Consider ...the results of the most recent evaluation of the pupil,...".

In this case, the MDT Report summarized the most recent evaluation of the student available to the 9/29/08 IEP committee. The psychologist presented, reviewed and discussed the results of the reevaluation, including her instructional recommendations, with the 9/29/08 IEP committee. The investigation team concluded that the 9/29/08 IEP committee considered the results of the reevaluation as evidenced by the discussion of the MDT Report at the 9/29/08 IEP, and the committee members' incorporation of the results of the reevaluation, including the psychologist's recommendations, in the PLOPs section of the 9/29/08 IEP. The 9/28/08 IEP committee was obligated to consider the results of the reevaluation when developing the 9/29/08 IEP and it did so.

Therefore, the investigation team concluded that CCSD complied with state requirements to consider the most recent evaluations of the pupil when developing the student's IEP, specifically the recommendations of the school psychologist.

Issue 3: Whether CCSD complied with state requirements to provide measurable postsecondary goals based upon age-appropriate transition assessments and transition services in the student's IEP.

This complaint concerned an allegation that the transition plan in the IEP was incomplete, inaccurate and inappropriate.

State regulations at NAC §388.284(1)(f)(1) and (2) state that the IEP shall include "... (1) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment and, where appropriate, independent living skills; and (2) Transition services, including, without limitation, the courses of study needed to assist the pupil in reaching those goals."

In this case, the student wished to enter the Air Force following graduation and become an aircraft technician. The investigation team determined that the IEP did not include sufficiently compliant measurable postsecondary goals based on age-appropriate assessments and did not adequately address transition services requirements.

Therefore, the investigation team concluded that CCSD failed to comply with state requirements to provide measurable postsecondary goals based upon age-appropriate transition assessments and transition services in the student's IEP.

Issue 4: Whether CCSD complied with federal and state requirements to obtain informed consent from the student when he reached the age of 18.

This complaint concerned an allegation that district staff attempted to coerce the student into signing the 9/29/08 IEP.

State regulations at NAC §388.195(1) states that "...any right accorded a parent of a pupil under the provisions of this chapter transfers to the pupil when the pupil attains the age of 18 years...".

State regulations at NAC §388.300(1) state that "...informed written consent must be obtained from the parents of the pupil before conducting an initial evaluation, before conducting additional assessments in a reevaluation, and before special education and related services are initially provided to a pupil with a disability...".

In this case, the student turned 18 prior to the 9/29/08 IEP meeting. The district was required to obtain written informed consent from the student, once he turned 18, only before conducting an initial evaluation, before conducting additional assessments in a reevaluation and before special education and related services were initially provided.

The 9/29/08 IEP, which occurred after the student's 18th birthday, was not his initial IEP and therefore no written consent was required. There was conflicting and inconclusive information as to how many times the district asked the student to sign the 9/29/08 IEP. In any case, there was no obligation for the district to have had him sign the IEP, and he chose not to sign it.

Therefore, the investigation team concluded that CCSD complied with state requirements regarding obtaining informed consent from the student when necessary.

Issue 5: Whether CCSD complied with state requirements to provide modifications and accommodations, specifically: 1) the ability to go to the special education teacher or learning lab for help; 2) teacher prepared notes/power points and color overlays and 3) books on tape.

This complaint concerned an allegation that the district failed to provide the accommodations of color overlays, books on tape and other educational instruction for the student as required by the IEPs.

State regulations at NAC §388.281(6)(g) require that the school district shall "provide the services and instruction deemed necessary for the pupil by the [IEP] committee." Further, state regulations at NAC §388.281.6(e) require that the program shall be implemented "as soon as possible after it is developed."

In this case, the student confirmed the reports of the teachers that he was allowed to go to the special education teacher and learning lab for help and that he received teacher prepared notes and power points when requested. There was no requirement in the IEPs for the student to be provided with books on tape.

Also, in this case, the IEPs required that there be color overlays available to the student upon request in all the classrooms. There were conflicting reports about whether the district provided color overlays to the student upon request, once they were available. However, the district did not have multiple color overlays available that could have been provided to the student upon his request until 9/18/09, at which time the multiple color overlays were received by the district. The IEPs first required that color overlays be available in all the classrooms on 4/25/08. The district was required to provide the services and instruction deemed necessary by the IEP committee as soon as possible after it was developed. The investigation team concluded that a delay of having multiple color overlays available to the student in all the

classrooms from 4/25/08 to 9/18/08 did not meet the standard of reasonableness with respect to “as soon as possible” as required when implementing IEPs.

Therefore, the investigation team concluded that: 1) CCSD had no requirement to provide books on tape to the student and therefore no violation occurred with respect to this issue; 2) CCSD complied with state requirements with regard to allowing the student to go to the special education teacher or learning lab for help and with regard to providing teacher prepared notes/power points but that 3) CCSD did fail to comply with state requirements with regard to providing the accommodation of color overlays upon request within a reasonable period of time.

Issue 6: Whether CCSD complied with state requirements to notify the parents that a transfer of rights had occurred when the student reached the age of 18.

This complaint concerned an allegation that the district failed to tell the parent how she could remain involved in the student’s education once he turned 18.

State regulations at NAC §388.195(1) and (3) state that “After the transfer of rights to the pupil, the public agency shall notify the ... parent that a transfer of rights has occurred...” and (3) “If the pupil is adjudged incompetent and a guardian is appointed for the pupil...any right which would otherwise transfer to the pupil...transfers to the pupil’s guardian”.

State regulations at NAC §388.284(1)(m) state that the public agency shall include in the individualized educational program it develops: “On or before the date on which the pupil attains the age of 17 years, a statement that the pupil has been informed of the rights that will devolve upon the pupil when the pupil attains the age of 18 years. The statement must be updated annually”.

In this case the student’s 4/25/09 and 9/29/09 IEPs had a check next to a statement saying “The student has been informed of his/her rights under IDEA and advised of the transfer of these rights at age 18”. While the district was obligated to include such a statement in the student’s IEP which it did, it also had an obligation to notify the parent that the transfer of rights had occurred upon the date the student turned 18 unless the student had been adjudged incompetent and a guardian had been appointed. The student had not been adjudged incompetent and had no legal guardian upon turning 18.

While the district had an obligation to notify the parent that a transfer of rights had occurred after the student turned 18, the district conceded that it had not notified the parent that a transfer of rights had occurred when the student turned 18.

Therefore, the investigation team concluded that CCSD failed to comply with state requirements to notify the parent that a transfer of rights had occurred after the student turned 18.

Issue 7: Whether CCSD complied with state requirements to convene an IEP meeting in response to parent and student requests in January 2009 to discuss aspects of the student’s transition services and educational program as well as requests to change the location of the student’s placement.

This complaint concerned an allegation that a January email request by the parent and a verbal request in January by the student to reconvene the IEP committee were not honored and that the district did not respond to the requests of the parent and student to return the student to his home school.

State regulations at NAC §388.195(1) states that “...any right accorded a parent of a pupil under the provisions of this chapter transfers to the pupil when the pupil attains the age of 18 years...”.

State regulations at NAC §388.300(7) (a) and (c) state that a public agency shall notify the parents of a pupil with a disability, within a reasonable time before any proposed or refused action regarding the (a) Placement of the pupil; and (c) Provision of a free appropriate public education to the pupil.

In this case, documentation exists that on 1/9/09 the parent requested an IEP meeting to discuss an “appropriate” transitional plan for the student as well as a “functional/realistic plan for the student’s senior year”. Because the student had turned 18 prior to 1/9/09, all rights to request an IEP meeting had transferred to him at the time of the parent’s request for an IEP meeting (see discussion above under Issue 4).

While there were conflicting verbal reports as to whether the student requested that an IEP meeting be convened in January, an examination of the teacher conference notes led the investigation team to conclude that the student had not requested an IEP meeting be convened to discuss any aspects of the IEP or to request that he be transferred from the assigned school to the home school.

The district only had an obligation to provide a prior written notice of refusal to convene an IEP meeting if a request for an IEP meeting had been made by the student. No such request was made and therefore no notice was required.

Therefore, the investigation team concluded that CCSD complied with state requirements with regard to: 1) any requests to convene an IEP meeting to discuss aspects of the student’s transition services and educational program and 2) requests to address the desire to change from the assigned school to the home school.

ORDER FOR CORRECTIVE ACTION

The CCSD is required to take corrective actions to address the violations found in this complaint investigation. Specifically, the district did not notify the parent that a transfer of rights had occurred nor did CCSD develop an IEP with sufficient: 1) measureable postsecondary goals based on age-appropriate transition assessments or 2) transition services. In addition, the district did not implement the IEPs with respect to one of the accommodations and modifications, specifically the provision of color overlays upon student request within a reasonable period of time.

Professional Development/Training

Within 30 days of receipt of this report, the CCSD must develop and submit to the NDE a proposed Corrective Action Plan (CAP). The proposed CAP must:

- Include a plan to review and revise, where necessary, site-level and district-level policies and procedures with respect to notifying parents when a transfer of rights has occurred.
- Include a plan to provide professional development for pertinent teachers and administrators at the school site on the requirements for:
 - Notifying parents when a transfer of rights has occurred
 - Developing: 1) measureable postsecondary goals based on age-appropriate transition assessments and 2) transition services in students’ IEPs
 - Implementing IEPs within a reasonable period of time with respect to accommodations and modifications

The CAP must be approved by the NDE prior to implementation. Following implementation of the approved activities, documentation of district corrective actions must be provided to the NDE within 30 days of completion.